IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

A.O.NO 695 OF 2003

Yadunath K. Jaiswar .. Appellant

vs.

New Tek Enterprises .. Respondent.

Ms.B.P.Jakkade i/b. Smt. Usha Jadhav, Advocate for the Appellant.

Ms.Gita Shashtri i/b.M.s.Khilani & Co., Advocate for the Respondent.

CORAM : A.S.OKA, J.

DATED : 29th March, 2005.

P.C. :

1. The Appeal is preferred by the Original Plaintiff challenging the Order dated 21.12.2001. By the said order, the Court Receiver was appointed to take charge of the vehicle and the Court Receiver was directed to take custody of the vehicle from the Respondent and to appoint the Appellant Plaintiff as agent without any security and royalty. The Appellant was directed to deposit the total sum of Rs.10,000/- by monthly instalments of Rs.2000/-. It is not in dispute

that the Appellant Plaintiff has not paid the said amount. As a result, the order passed by the learned Trial Judge has not operated. The Receiver has not taken charge of the vehicle and the vehicle is still in custody of the Defendant. As the Appellant Plaintiff has not paid the sum of Rs.10,000/-, now there is no question of Receiver taking possession of the vehicle and appointing Appellant as the agent. The learned Counsel for the Appellant stated that the Appellant has already filed suit for damages against the Respondent.

2. In view of this position no interference is called for. The Appeal is dismissed.

3. All contentions of the parties in the pending suit are expressly kept open.

. Parties to act on the authenticated copy of this order.

(A.S.Oka, J.)